

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ELI CRAWFORD, IV,)	
Petitioner)	
)	
vs.)	Civil Action No. 06-397
)	Judge Alan N. Bloch/
WARDEN KENNETH JONES; THE)	Magistrate Judge Amy Reynolds Hay
DISTRICT ATTORNEY OF THE)	
COUNTY OF ALLEGHENY; THE)	
ATTORNEY GENERAL OF THE STATE)	
OF PENNSYLVANIA,)	
Respondents)	

MEMORANDUM ORDER

The Petitioner filed a Motion to Present Interrogatory Question to Allegheny County District Attorney and the Respondents have submitted their response thereto. The Petitioner appears to seek facts that would warrant this Court to excuse procedural default.

It appears that discovery is extraordinary to habeas corpus. Bracy v. Gramley, 520 U.S. 899, 904 (1997)(“A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course.”); Rule 6 of the Rules Governing Section 2254 Cases in the United States District Courts (“Rule 6”)(and Comment). Under Rule 6, “the district court has discretion to decide the extent to which discovery is appropriate.” Mayberry v. Petsock, 821 F.2d 179, 185 (3d Cir. 1987); Rule 6. The Petitioner must show good cause to be entitled to a grant of discovery in habeas cases. Rule 6 (and Comment). “Good cause” is shown “where specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is ... entitled to relief [and] it is [then] the duty of the court to provide the necessary facilities and procedures for an adequate inquiry.” Harris v. Nelson, 394 U.S. 286, 300 (1969). The courts are to interpret Rule 6 consistent with

Harris. Advisory Committee's Note on Rule 6.

Petitioner has failed to set forth any allegations in his Petition or Motion to demonstrate good cause. As well, the Court notes that the majority of the interrogatories Petitioner seeks to serve on the District Attorney do not seek discovery of facts but, rather, legal conclusions, opinions or counsel, none of which would constitute a proper basis for discovery.

Accordingly, for the above-stated reasons, IT IS HEREBY ORDERED that the Motion to Present Interrogatory Question to Allegheny County District Attorney is DENIED.

IT IS FURTHER ORDERED that if plaintiff desires review of this Order by the District Judge to whom this case is assigned, plaintiff must file an application with the Clerk of Court within ten (10) days of the date of this Order. Failure to do so will waive the right to appeal. Siers v. Morrash, 700 F.2d 113 (3d Cir. 1983).

/s/ Amy Reynolds Hay
AMY REYNOLDS HAY
United States Magistrate Judge

August 21, 2006

cc: Eli Crawford, IV
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